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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 1:16-CV-05439-JPO

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GLEN CRAIG,

Plaintiff,

vs.

UNIVERSAL MUSIC GROUP, INC.,

KINGSID VENTURES, LTD., and ESTATE

OF RILEY B. KING,

Defendants.

-----)

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TELEPHONIC DEPOSITION OF RYAN NULL

New York, New York

April 21, 2017

Reported by:

Linda Salzman, RPR

Job No. 18495

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1
2
3 April 21, 2017
4 12:00 p.m.
5

6 Telephonic Deposition of RYAN
7 NULL, the witness herein, held at
8 the offices of Universal Music
9 Group, 1755 Broadway, New York, New
10 York, pursuant to Notice, before
11 Linda Salzman, a Notary Public of
12 the State of New York.
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1
2 STIPULATIONS
3 IT IS HEREBY STIPULATED AND
4 AGREED by and among counsel for the
5 respective parties hereto, that the
6 sealing and certification of the
7 within deposition shall be and the
8 same are hereby waived:
9

10 IT IS FURTHER STIPULATED AND
11 AGREED all objections, except as to
12 the form of the question, shall be
13 reserved to the time of the trial;
14

15 IT IS FURTHER STIPULATED AND
16 AGREED that the within deposition may
17 be signed before any Notary Public
18 with the same force and effect as if
19 signed and sworn to before the Court.
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Page 5

1
2 APP E A R A N C E S:
3

4 On Behalf of Plaintiff:

5 LIEBOWITZ LAW FIRM, PLLC
6 11 Sunrise Plaza, Suite 305
7 Valley Stream, New York 11580
8 (516) 233-1660
9 BY: KATE TSYVKIN, ESQ.
10 kt@liebowitzlawfirm.com
11 RICHARD LIEBOWITZ, ESQ.
12 rl@liebowitzlawfirm.com

13 On Behalf of Defendants:

14 LOEB & LOEB LLP
15 345 Park Avenue
16 New York, New York 10154
17 (212) 407-4953
18 BY: LINNA CHEN, ESQ.
19 lchen@loeb.com

20 Also Present:

21 CARLA MILLER, ESQ.
22 Universal Music Group
23
24
25

1
2 R Y A N N U L L,
3 called as a witness, having been duly
4 sworn by a Notary Public, was examined
5 and testified as follows:
6

7 EXAMINATION BY
8 MS. TSYVKIN:

9 Q. Good morning, Mr. Null. Thank
10 you for being here and making time for us.

11 A. You're welcome.

12 Q. My name is Kate Tsyvkin. I
13 represent the plaintiff in this lawsuit,
14 Glen Craig.

15 I wanted to go over some ground
16 rules with you, just to let you know what
17 we'll be doing today. I'm going to be
18 asking you some questions about the
19 matters involving this case and some
20 general questions as well. If you are
21 having trouble understanding my question,
22 just let me know and maybe I will rephrase
23 it.

24 Just answer, please, to the best
25 ability that you have as far as
recollections, you know, just answer to

2 (Pages 2 to 5)

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<p>1 R. Null - Confidential</p> <p>2 where there's one photo. Or it could be</p> <p>3 something more expensive with a lengthier</p> <p>4 booklet that would require more pages to</p> <p>5 fill, so could potentially use more</p> <p>6 photos.</p> <p>7 Q. So it's not that you are</p> <p>8 preparing a lot of different photographs</p> <p>9 for someone to choose from. You're just</p> <p>10 saying depending on the size of the</p> <p>11 project, you would research as few photos</p> <p>12 or as many photos as that project</p> <p>13 necessitates?</p> <p>14 A. A smaller project would require</p> <p>15 less photos generally, but we would</p> <p>16 research as many as we need to until we</p> <p>17 find the correct photo that's appropriate</p> <p>18 or the correct creative choice that the</p> <p>19 art director or the designer or anyone</p> <p>20 else would approve to be used from a</p> <p>21 creative standpoint.</p> <p>22 If we're researching and</p> <p>23 researching and we're just finding photos</p> <p>24 we don't care for, we will keep going</p> <p>25 until we find something that is</p>	<p>1 R. Null - Confidential</p> <p>2 the past that was, I don't know, came out</p> <p>3 in the past and now we're reissuing it.</p> <p>4 Straight reissue, meaning we're not</p> <p>5 changing the artwork or the music. We may</p> <p>6 just be putting out on CD instead of</p> <p>7 another format or digitally instead of a</p> <p>8 prior format.</p> <p>9 Whereas opposed to a new</p> <p>10 compilation, which would require new art</p> <p>11 and is a unique track listing, basically a</p> <p>12 completely new collection.</p> <p>13 Q. So reissuing where it's just</p> <p>14 different in the format you mentioned, so</p> <p>15 something that's for the first time is</p> <p>16 being released as a CD or sometimes you</p> <p>17 need it digitally remastered, something</p> <p>18 like that, you call that a straight</p> <p>19 reissuing; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And then if something is like a</p> <p>22 new compilation with new music track --</p> <p>23 what is it called, track lists, is that</p> <p>24 the correct form?</p> <p>25 A. Yes, new track list. New</p>
<p>1 R. Null - Confidential</p> <p>2 satisfactory for our needs.</p> <p>3 Q. Can you talk a little about</p> <p>4 those needs, some of the factors that go</p> <p>5 into your consideration of choosing a</p> <p>6 photograph?</p> <p>7 A. First we want to make sure that</p> <p>8 it's the correct time period. It should</p> <p>9 be flattering photos of the artist. The</p> <p>10 cover is, of course, if there's a cover as</p> <p>11 opposed to interior photos, we really are</p> <p>12 careful about what we choose for a cover.</p> <p>13 It really needs to be -- we're</p> <p>14 more concerned with the cover, let's say,</p> <p>15 than what shows up inside. They all need</p> <p>16 to be good photos but you need to have a</p> <p>17 good cover.</p> <p>18 Q. Can you tell us how those</p> <p>19 considerations change if you're doing a</p> <p>20 reissue of an album?</p> <p>21 MS. CHEN: Object.</p> <p>22 A. A reissue, well, I guess there's</p> <p>23 two distinctions from what we do. There's</p> <p>24 a straight reissue, which would be an</p> <p>25 album maybe that was from -- an album from</p>	<p>1 R. Null - Confidential</p> <p>2 sequence. New graphic design.</p> <p>3 Q. Then that would be not a</p> <p>4 straight reissue, that would be something</p> <p>5 else? Is there a name for that?</p> <p>6 A. Compilation.</p> <p>7 Q. Can you think of any other kind</p> <p>8 of reissuing that isn't straight reissuing</p> <p>9 but something else is altered?</p> <p>10 MS. CHEN: Object.</p> <p>11 You can answer.</p> <p>12 A. Okay. It could be a vintage</p> <p>13 album that was unreleased until this</p> <p>14 current date, like an album that was</p> <p>15 recorded back in the day, initially</p> <p>16 intended to be released at the time but</p> <p>17 for whatever reason wasn't released then,</p> <p>18 so we may release that now as, you know, a</p> <p>19 previously unreleased album.</p> <p>20 And there may or may not have</p> <p>21 the been artwork designed for that</p> <p>22 originally. So we either have artwork</p> <p>23 that was intended for it originally, or if</p> <p>24 it didn't get to that point, we would be</p> <p>25 creating new art, but nevertheless it</p>

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<p>Page 58</p> <p>1 R. Null - Confidential 2 -- wherever the best photos are that we 3 can acquire. 4 Q. How would you say the process 5 with the compilation is different from the 6 process of the straight reissue? 7 A. The straight reissue just 8 requires research of the art, not 9 individual photos. Where the compilation, 10 from my part at least, is driven by photo 11 research as opposed to album art research. 12 Art that already existed. My photo 13 research for the compilations will 14 ultimately lead to a designer creating 15 art. 16 Q. Sir, can you talk about some of 17 the factors that you consider when 18 selecting the photographers in the photo 19 research for a compilation? 20 A. Needs to reflect the timeframe 21 of the music that's been selected for the 22 compilation. Photos that are flattering 23 of the artist. That's key. We want the 24 artist to look their best. 25 Q. Any other factors?</p>	<p>1 R. Null - Confidential 2 that. 3 Q. Is it typical to use cover art 4 from one of the albums? Just to 5 elaborate, suppose a compilation has 6 different music tracks from different 7 albums, is it typical to use cover art 8 from one of the albums that go into making 9 a compilation? 10 MS. CHEN: Objection. 11 A. It is not uncommon on a 12 compilation to show somewhere inside some 13 sort of collage or montage of the artist's 14 discography. Their back catalogue 15 basically. All their albums. All their 16 previous albums. Front covers. 17 Q. But you're saying that would be 18 typical for, you said inside, so in the 19 booklet or the liner notes, something like 20 that, right? 21 A. Yeah, just showing in the liner 22 notes or internally, somewhere inside the 23 package to show the artist's history of 24 the other albums that were released by 25 Universal-owned companies.</p>
<p>Page 59</p> <p>1 R. Null - Confidential 2 A. Budgetary possibly, depending on 3 how much money is available, that might 4 dictate whether we just stick with photos 5 that we own or whether we want to seek 6 photos from a license. 7 Q. And in compilations, you are no 8 longer required to use the artwork that 9 was previously used on any one of the 10 albums that go into a compilation, for 11 example, any previous artwork for the 12 particular artist? 13 You're not -- are you obligated 14 to use any of that artwork from before? 15 MS. CHEN: Objection. 16 A. Well, a compilation, a new 17 compilation artist is by nature not going 18 to use any original album artwork, because 19 a compilation is songs that are pulled 20 from all -- culled from all kinds of 21 previous albums or singles as chosen by 22 the producer of the package. 23 So by definition, it's going to 24 be some kind of new design of the art, of 25 art by a designer that will be hired to do</p>	<p>Page 61</p> <p>1 R. Null - Confidential 2 Q. So if a cover -- if cover art 3 for an album was used again later on on a 4 compilation, would that be unusual? 5 MS. CHEN: Used again how? 6 BY MS. TSYVKIN: 7 Q. Used on the cover of a 8 compilation? 9 A. A compilation would have new 10 art. It wouldn't make sense to put an 11 artist's album from 20 years ago on the 12 cover of a new compilation. It would be 13 misleading. We wouldn't do that. I mean, 14 a consumer would see that and think it's 15 the album from the artist put out in, I 16 don't know, 1980. 17 But this is supposed to be 18 obvious that this is a new compilation put 19 together today with a new photo. It's got 20 a new title. This compilation is called 21 so-and-so's greatest hits. It wouldn't 22 make sense for us to put an album cover 23 from the past that is not reflected by 24 this new track listing as the new cover. 25 Does that make sense?</p>

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<p>Page 62</p> <p>1 R. Null - Confidential 2 Q. Yeah, that makes sense to me. I 3 guess my question is: If all a 4 compilation is just a new arrangement 5 of possibly old tracks, my question is, 6 would it be usual or does it happen that 7 sometimes that new compilation will bear 8 the cover art of one of the old albums? 9 MS. CHEN: Objection. 10 BY MS. TSYVKIN: 11 Q. I guess that's what I'm asking. 12 MS. CHEN: I think we're talking 13 about different definitions of 14 compilation. 15 BY MS. TSYVKIN: 16 Q. I think what you said before is 17 compilation is, as opposed to a straight 18 reissue, any kind of an issuing of a new 19 differently ordered track list or anything 20 different about track lists; is that 21 correct? 22 A. Yeah, a compilation has a 23 completely different track list. It could 24 have twice as many songs as an album from 25 the past. It could be pulled from a whole</p>	<p>1 R. Null - Confidential 2 have the same artwork be placed on the new 3 compilation. That wouldn't make much 4 sense to you? 5 A. No, it wouldn't. 6 Q. Let's go through the process of 7 the compilations. So we were talking 8 about how would you go through basically 9 the same steps as we discussed before. 10 You would do your photo research, you 11 would consider the factors, the timeframe 12 of the music, that the photograph is 13 flattering, budgetary constraints. 14 What would happen next? 15 A. After the photo research is 16 complete? 17 Q. Yes. 18 A. The art director would indicate 19 which designer he had chosen to design the 20 art for the compilations and send -- at 21 the appropriate time, send those elements 22 to the designer so they can start working 23 on the design. 24 Q. Can you just fill in the one 25 step in between? Do you report back to</p>
<p>Page 63</p> <p>1 R. Null - Confidential 2 array of previous albums. The songs, sort 3 of cherry-picked. 4 Typically, it could be a 5 greatest hits package. So one album back 6 then might have had a couple of hits on it 7 or one, so they're pulling tracks from 8 here and there to make a -- that's sort of 9 the definition of a compilation, the songs 10 are pulled from various albums to make 11 this album. 12 Q. So that's how I understood it as 13 well. It just can be a different ordering 14 of track lists from the past in a new 15 compilation for this particular artist, 16 just different things from different 17 albums from before, correct? 18 A. Yeah. And completely newly 19 created artwork. Just like that track 20 listing is a newly created track listing 21 and sequence. 22 Q. So you're saying it wouldn't 23 much sense to have one of the old album 24 covers, even if that album contributed a 25 lot of the tracks to a new compilation to</p>	<p>Page 65</p> <p>1 R. Null - Confidential 2 the art director with what you found in 3 your photo research? 4 A. Typically, he'll ask in a 5 meeting do we have photos yet. And he may 6 or may not want to see them before they go 7 to the designer. 8 But if I say yes, we have the 9 photos, at that time or at some other time 10 later he'll indicate who, which designer 11 to send those to. 12 Q. How does he decide whether to 13 see the photos you found or not to see 14 them? 15 MS. CHEN: How would he know 16 that? How would Ryan know that? How 17 would Ryan know what someone else 18 decides? 19 BY MS. TSYVKIN: 20 Q. I just want to know the 21 procedure, what are the factors that your 22 supervisor considers when he either wants 23 to see the photographs or doesn't want to 24 see the photographs? 25 MS. CHEN: Do you have knowledge</p>

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<p>1 R. Null - Confidential 2 because if this is the back cover -- it 3 looks like this is cropped. It may have 4 been the back cover of that same -- 5 actually, at the bottom of that page, you 6 can see the notes that I made. I said 7 B.B. King -- on the bottom of GC0007, 8 there's a note there, I made notes, I see, 9 about each one of these releases. 10 Actually, starting with the body 11 of the e-mail on the previous page on 006, 12 are the results of my research. I put 13 little notes under each title to Mr. Craig 14 to tell him what I found out in my 15 research. 16 And that one you're referring to 17 on the top of 0007, if you look at the 18 bottom of that page I put a note there, 19 B.B. King and Friends. This title is not 20 a Universal release, so my memory is 21 serving me correctly on that. 22 Q. If we go back to the first page 23 of that e-mail, GC0006? 24 A. Yeah. 25 Q. So you said that you found four</p>	<p>1 R. Null - Confidential 2 cover has been altered. 3 It does say Amazon.com 4 exclusive. It may have been altered 5 because of that. I'm just speculating now 6 but -- the one on the following page, 7 which is similar to it, that also says 8 Ladies and Gentlemen, Mr. B.B. King. That 9 one I am definitely familiar with. 10 But the one that says Amazon.com 11 exclusive, I can't really say I'm familiar 12 with that. It looks like the type on the 13 top is different, the B.B. King. Yeah, I 14 can't say unequivocally. 15 Q. So can we look at the one you 16 are familiar with on GC00013, which is 17 Ladies and Gentlemen, Mr. B.B. King? 18 A. Yeah. 19 Q. Can you tell us a little bit 20 more about your familiarity with this 21 artwork? 22 A. I believe that it was a package 23 that was manufactured by Universal in the 24 U.K. And it was imported into the United 25 States as far as I know, but it was</p>
<p>1 R. Null - Confidential 2 albums that were in your product ordering 3 system, correct? 4 A. Correct. 5 Q. Of these four, you said you're 6 -- were you familiar with any one of them? 7 MS. CHEN: He just answered 8 that. He went through each of those 9 four and he said this one I worked on. 10 This one I worked on or didn't work 11 on. We just did that. 12 BY MS. TSYVKIN: 13 Q. Could we go to Plaintiff's 14 Exhibit 2, GC00012? 15 A. Okay. 16 Q. The top photograph, the B.B. 17 King, Ladies and Gentlemen, Mr. B.B. King 18 Amazon.com exclusive, does that look 19 familiar to you? 20 A. Somewhat. It looks like it's a 21 derivation of another artwork on here. It 22 looks like it's derived from another 23 package that I am familiar with that I had 24 seen that the U.K. did, which is on the 25 following page, but it looks like the</p>	<p>1 R. Null - Confidential 2 produced and put together in the U.K. from 3 what I recall. 4 Q. Did you participate in that 5 process? 6 A. We supplied the U.K. with a 7 selection of photos, including the cover 8 photo. I don't recall how many photos, 9 though, but I believe that was included. 10 Q. When you say you supplied the 11 U.K. with a selection of photographs, who 12 supplied; was it you, was it Vartan? 13 A. It would have been myself at 14 Vartan's request. He had given me, from 15 what I recall, he said send photos to so 16 and so. I don't recall who. I know we 17 sent them a group of photos that we said 18 -- that wouldn't require licensing. We 19 wouldn't give them anything we thought was 20 going to be dangerous from -- we wanted to 21 give them things they could just use that 22 we felt we had rights to. 23 Q. You mentioned you felt you had 24 rights to. Who requested a submission of 25 photographs from the U.K.?</p>

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<p>Page 130</p> <p>1 R. Null - Confidential 2 A. I don't know that, or I don't 3 recall it. Requests likely would have 4 come to Vartan, and he would have 5 delegated it to me to pull photos and send 6 them to whoever that was. 7 Q. Do you recall what exactly 8 Vartan asked you to do? Did he ask you to 9 pull the photographs or make sure that you 10 could send them to the U.K.? 11 A. Pull, show him, send. I'm sure 12 it was all of the above. 13 Q. So was part of that assignment 14 from Vartan to make sure that whatever 15 photographs you send them, you have rights 16 to? 17 A. Yes. Correct. 18 Q. Do you know if Vartan e-mailed 19 you these instructions? 20 A. I don't know for sure. He very 21 well likely did. 22 Q. Are there any other e-mails with 23 instructions pertaining to this assignment 24 that you got from anyone else aside from 25 Vartan?</p>	<p>Page 132</p> <p>1 R. Null - Confidential 2 in terms of my typical research, like for 3 our projects, I was basically just pulling 4 photos that had already been used before 5 that were scanned and already in our 6 files. 7 Q. So that process that you 8 described earlier, you didn't go through 9 that? 10 A. No, it wasn't as intense as 11 that. No, it wasn't as involved as that. 12 Q. Can you just elaborate a little 13 bit about what you did do? You said you 14 pulled these photographs. Can you 15 describe what that actually entails? 16 A. Well, going into our digital 17 files could be on a server that we have, 18 where we store images in our files, or if 19 they were backed up on some CDs that were 20 burned to store images. That's where we 21 store these digital files on some sort of 22 digital storage medium. 23 Q. Are they searchable? Can you 24 search for a particular artist? 25 A. We have them set up on our</p>
<p>Page 131</p> <p>1 R. Null - Confidential 2 A. I don't think so, but I can't 3 recall for sure. I mean, he would be the 4 one that I would be reporting to. I would 5 only be doing something like this if he 6 directed it. 7 Q. And Vartan asked you 8 specifically to send a particular 9 photograph or send a few photographs to 10 the U.K. for this particular album? 11 A. More than one. Not just one 12 photo. I don't remember how many photos 13 but it was a selection. Probably more 14 than a few. 15 Q. Do you recall what you did to go 16 about sending these photographs to the 17 U.K.? 18 A. Photos were digital already. So 19 it would have been sent digitally. Not 20 physical photos. I'm sure whatever we 21 sent was already digitized. 22 Q. Did you do any research before 23 sending the photographs? 24 A. Pulling the photos, but it was 25 just -- it wasn't really research. It was</p>	<p>Page 133</p> <p>1 R. Null - Confidential 2 server in folders by artist name. So you 3 wouldn't be doing a keyword search per se. 4 They're alphabetical, so you would know. 5 You could very easily find the B.B. King 6 folder or any artist you were looking for. 7 I mentioned also CDs where we 8 had backed up stuff on the CDs. We keep 9 an Excel sheet so we know what's on those, 10 and those you can search by keyword. 11 That's a much smaller selection. Most of 12 the stuff is on a very large server. 13 Q. Does B.B. King have anything on 14 the CDs, the backup CDs that you 15 mentioned? 16 A. Yes. 17 MS. CHEN: Can you read that 18 back? 19 (Record was read back by the 20 court reporter as follows: 21 "QUESTION: Does B.B. King have 22 anything on the CDs, the backup CDs 23 that you mentioned? 24 "ANSWER: Yes.") 25 BY MS. TSYVKIN:</p>